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6
7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2012-36*

12 **KIMBERLY ANN SCOVERN**

13 **4801 Ken Court**
14 **New Orleans, LA 70131**

A C C U S A T I O N

15 **Registered Nurse License No. 651109**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
Department of Consumer Affairs.

21 2. On or about January 19, 2005, the Board of Registered Nursing issued Registered
22 Nurse License Number 651109 to Kimberly Ann Scovern ("Respondent"). The Registered Nurse
23 License expired on July 31, 2006, and has not been renewed.

24 **JURISDICTION AND STATUTORY PROVISIONS**

25 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.
28

1 4. Section 2750 of the Code states:

2 "Every certificate holder or licensee, including licensees holding temporary licenses, or
3 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
4 article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, ' 2700 et seq.)]. As used in this
5 article, "license" includes certificate, registration, or any other authorization to engage in practice
6 regulated by this chapter. The proceedings under this article shall be conducted in accordance
7 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
8 Government Code [the Administrative Procedure Act], and the board shall have all the powers
9 granted therein."

10 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
11 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
12 licensee or to render a decision imposing discipline on the license. Under Section 2811
13 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
14 years after the expiration.

15 6. Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over
16 suspended, expired, forfeited, cancelled, or surrendered licenses:

17 "The suspension, expiration, or forfeiture by operation of law of a license issued by a
18 board in the department, or its suspension, forfeiture, or cancellation by order of the
19 board or by order of a court of law, or its surrender without the written consent of the
20 board, shall not, during any period in which it may be renewed, restored, reissued, or
21 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground."

22 7. Section 2761 of the Code provides grounds for disciplinary action:

23 "The board may take disciplinary action against a certified or licensed
24 nurse or deny an application for a certificate or license for any of the following:

25 (a) Unprofessional conduct, which includes, but is not limited to, the
26 following:

26

27 (4) Denial of licensure, revocation, suspension, restriction, or any other
28 disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another

1 California health care professional licensing board. A certified copy of the decision
2 or judgment shall be conclusive evidence of that action."

3 8. Section 2762 of the Code provides that certain conduct relating to controlled substances
4 constitutes unprofessional conduct:

5 "In addition to other acts constituting unprofessional conduct within the meaning of
6 this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
7 licensed under this chapter to do any of the following:

8 (a) Obtain or possess in violation of law, or prescribe, or except as
9 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
10 himself or herself, or furnish or administer to another, any controlled substance as
11 defined in Division 10 (commencing with Section 11000) of the Health and Safety
12 Code or any dangerous drug or dangerous device as defined in Section 4022.

13 (b) Use any controlled substance as defined in Division 10 (commencing
14 with Section 11000) of the Health and Safety Code, or any dangerous drug or
15 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
16 in a manner dangerous or injurious to himself or herself, any other person, or the
17 public or to the extent that such use impairs his or her ability to conduct with safety to
18 the public the practice authorized by his or her license.

19

20 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
21 unintelligible entries in any hospital, patient, or other record pertaining to the
22 substances described in subdivision (a) of this section."

23 COST RECOVERY

24 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Louisiana State Board of Nursing)

10 10. Respondent is subject to disciplinary action under Section 2761, subdivision (a)(4) of
11 the Code in that she was disciplined by the Louisiana State Board of Nursing ("Louisiana
12 Board"), as follows:

13 11. On or about June 10, 2009, the Louisiana Board entered an order in the disciplinary
14 action entitled *In the Matter of Kimberly Ann Scovern, 4801 Ken Court, New Orleans, LA 70131,*

1 *Respondent*. In that order, the Louisiana Board approved a Voluntary Surrender of License
2 signed by Respondent on May 17, 2009 and accepted the voluntary surrender of Respondent's
3 license to practice nursing in Louisiana.

4 12. In the Voluntary Surrender of License, the Louisiana Board found and Respondent
5 admitted as follows:

- 6 a. On or about April 4, 2008, Respondent, while working at Louisiana Specialty
7 Hospital had a physician write a prescription for Percocet for her mother who was
8 not a patient of the Hospital on a Louisiana Specialty Hospital prescription pad.
9 b. On or about July 10, 2008, Respondent removed one tablet of Demerol for a
10 patient who had no order for Demerol. Respondent asked a colleague to override
11 the Pyxis to obtain Demerol from the system for Patient #1.
12 c. On or about that same day, Respondent refused to submit a specimen for a urine
13 drug screen and was subsequently terminated and made ineligible for re-hire.
14 d. On March 10, 2009, by Consent Order issued by the Louisiana Board,
15 Respondent's license was probated for a minimum of two years with stipulations.
16 e. On April 28, 2009, Respondent violated probation when Respondent submitted
17 a random drug screen which tested positive for Cocaine.

18 13. Under Section 2761, subdivision (a)(4) of the Code, the revocation of Respondent's
19 nursing license by Louisiana is grounds for the Board to take disciplinary action.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 14. Respondent is subject to disciplinary action under section 2761, subdivision (a) of
23 the Code in that Respondent committed acts of unprofessional conduct. The conduct is more
24 particularly described in paragraph 11 and paragraph 12, subparagraphs (a) through (e), inclusive,
25 above, and herein incorporated by reference.

26 **THIRD CAUSE FOR DISCIPLINE**

27 **(Drug-Related Transgressions)**

28 15. Respondent is subject to disciplinary action under Section 2762, subdivision (b) of

1 the Code by using cocaine, a Schedule II controlled substance, which impaired her ability to
2 conduct with safety her nursing practice. The conduct is more particularly described in paragraph
3 11 and paragraph 12, subparagraphs (a) through (e), inclusive, above, and herein incorporated by
4 reference.

5 16. Respondent is subject to disciplinary action under Section 2762 subdivisions (a) and (e) of
6 the Code for obtaining Percocet and Demerol, controlled substances, in violation of the law, and
7 for falsifying hospital and patient records to do so. The conduct is more particularly described in
8 paragraph 11 and paragraph 12, subparagraphs (a) through (e), inclusive, above, and herein
9 incorporated by reference.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 651109, issued to
14 Kimberly Ann Scovern;

15 2. Ordering Kimberly Ann Scovern to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.
19
20

21 DATED: July 19, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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